

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL THOMAS GORMAN,

No. C 07-2883 SBA (PR)

Petitioner,

**SECOND ORDER TO SHOW
CAUSE**

v.

MATTHEW C. KRAMER,

Respondent.

Petitioner, a state prisoner incarcerated at California State Prison - Folsom, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He also filed a motion to stay the case pending exhaustion of his new claims in state court.

This matter was initially assigned to the Honorable Judge Martin J. Jenkins. Judge Jenkins granted Petitioner's motion to stay the case while he exhausted new claims in state court.

Petitioner subsequently notified the Court that he exhausted his new claims. He filed an amended petition containing such claims.

In an Order dated March 30, 2008, Judge Jenkins reopened the case, lifted the stay, and ordered Respondent to show cause why a writ should not issue based on the cognizable claims in the amended petition. This matter was later reassigned to the undersigned.

Respondent has not filed an Answer to the amended petition.¹ Respondent shall comply with the briefing schedule outlined below without delay.

Good cause appearing, the Court hereby issues the following orders:

1. The Clerk shall serve by certified mail a copy of this Order, Judge Jenkins's March 30, 2008 Order (docket no. 13), the Reassignment Order (docket no. 14), and the amended petition (docket no. 10) and all amendments and attachments thereto upon Respondent and Respondent's

¹ It is not clear whether Judge Jenkins's March 30, 2008 Order was ever served on Respondent. To date, he has not appeared in this action.

1 attorney, the Attorney General of the State of California. The Clerk shall also serve a copy of this
2 Order on Petitioner at his current address.

3 2. Respondent shall file with this Court and serve upon Petitioner, within **sixty (60)**
4 **days** of the issuance of this Order, an Answer conforming in all respects to Rule 5 of the Rules
5 Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued.
6 Respondent shall file with the Answer a copy of all portions of the relevant state records that have
7 been transcribed previously and that are relevant to a determination of the issues presented by the
8 petition.

9 3. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with
10 the Court and serving it on Respondent within **thirty (30) days** of his receipt of the Answer. Should
11 Petitioner fail to do so, the petition will be deemed submitted and ready for decision **thirty (30) days**
12 after the date Petitioner is served with Respondent's Answer.

13 4. Respondent may file a motion to dismiss on procedural grounds in lieu of an Answer,
14 as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases.
15 If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an
16 opposition or statement of non-opposition to the motion within **thirty (30) days** of receipt of the
17 motion, and Respondent shall file with the Court and serve on Petitioner a reply within **fifteen (15)**
18 **days** of receipt of any opposition.

19 5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court
20 and Respondent informed of any change of address and must comply with the Court's orders in a
21 timely fashion. Petitioner must also serve on Respondent's counsel all communications with the
22 Court by mailing a true copy of the document to Respondent's counsel.

23 6. Extensions of time are not favored, though reasonable extensions will be granted.
24 Any motion for an extension of time must be filed no later than **ten (10) days** prior to the deadline
25 sought to be extended.

26 IT IS SO ORDERED.

27 DATED: 10/31/08

28 
SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4
5

6 GORMAN et al,
7 Plaintiff,
8 v.
9 KRAMER et al,
10 Defendant.
11 _____/

Case Number: CV07-02883 SBA

CERTIFICATE OF SERVICE

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on November 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
16 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
17 located in the Clerk's office.

18 Michael Thomas Gorman
19 California State Prison, Folsom
20 Prisoner Id T80924
P.O. Box 715071
Represa, CA 95671

21 Dated: November 3, 2008

22 Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk
23
24
25
26
27
28